

IN THE DRAWINGS:

Applicant respectfully submits a proposed drawing sheet containing FIG. 6 and labeled, REPLACEMENT SHEET, for the Examiner's review and approval.

REMARKS

The Office Action mailed January 20, 2006 has been reviewed. Applicant would like to express its gratitude for numerous courtesies extended to Applicant's representative during the telephone interview of May 5, 2006. Further, we acknowledge receipt of the Interview Summary mailed on May 9, 2006.

Proposed Figure 3 submitted previously has been approved. Figure 6 remains disapproved because it fails to show the features of claim 28. Having cancelled claims 6 and 28, it is believed the drawing rejection is moot. However, a Replacement Sheet for Figure 6 has been submitted herewith. We note that page 6 of the specification states that "Thus for each of the loops 305, there is a hook and loop fastener 320 on the headband 170 for wrapping around suspension band 160 and another hook and loop fastener 322 having portions on both the contact areas of headband 170 and suspension band 160 that are under a given one of the loops 305 when that loop is fastened." The replacement sheet shows the entire loop assembly with arrow 305, and also shows one fastener 320 on headband 170 and another fastener 322 on suspension band 160.

With regard to the Section 112 rejection of Claims 6, 25, 26 and 34, those claims have been cancelled, thereby overcoming the rejection.

We have carefully considered whether the law supports a finding of nonobviousness based on the combination of references. The following statement from the Federal Circuit,

in *Interconnect Planning Corporation v. Feil*, 774 F.2d 1132, 1143 (Fed.Cir. 1985), seems applicable to the facts in this case.

When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577 & n. 14, 221 USPQ 929, 933 & n. 14 (Fed.Cir.1984). There must be “something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination”. *Lindemann Maschinenfabrik, GmbH v. American Hoist and Derrick Co.*, 730 F.2d 1452, 1462, 221 USPQ 481, 488 (Fed.Cir.1984).

The Groot ‘522 reference from 1965, the Webb ‘879 reference from 1970 and the Molitoris ‘765 reference from 1971 indicate that for the last forty years, the field of ballistic helmet design has only suggested the use of one or more common connection points between the bands and the pads¹. The Lundbeck ‘210 reference, directed to a Retainer for Eyewear, is non-analogous art.

The invention of Webb, as stated in col. 1, lines 46 – 56, is to provide a headband with one common connection at 22, and a second common connection at 14, “the combination thereby providing a secure mounting of the helmet upon the wearer’s head and

¹ See *In re Dembiczak*, 175 F.3d 994, 999 (Fed.Cir.1999). “Measuring a claimed invention against the standard established by section 103 requires the oft-difficult but critical step of casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field.” [emphasis added].

permitting a limited amount of helmet motion relative to the head” [emphasis added].

Nowhere is there any suggestion to remove the existing headband and replace it with the non-adjustable, unstabilized headband from Groot.

Groot is stabilized by cushions 16 and 17 which contact the user’s ears. This is different than a ballistic helmet, where the helmet shell must maintain some spacing from the user’s head. Groot provides interchangeably headbands. To modify the size, one headband is removed and another larger or smaller one is exchanged.

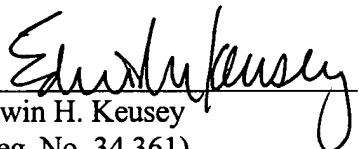
Even if the suspension system of Webb were to receive the headband of Groot with the straps of Lundbeck, there would be no circumferential adjustment of the headband, as now recited in claim 1. Support for the term “circumferentially” can be found in applicant’s specification on page 9, lines 20-21, referring to fastener 392 for adjusting a circumference of headband 390.

In conclusion, amended claim 1 differs from the prior art: in that the headband is connected to the suspension band only at points remote from the suspension band attachment to the shell rather than Webb’s common connection at 23; in that the crown pad is connected to the suspension band only at points separate from the suspension band attachment to the shell rather than Groot’s common connection at 26; and in that the crown pad is connected to the suspension band only at points separate from the headband connections to the suspension band rather than Webb’s common connection 22.

The fee of \$120 and a Petition for a one-month Extension of Time to respond is enclosed. It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's representatives Deposit Account No. 50-1433.

Respectfully submitted,
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